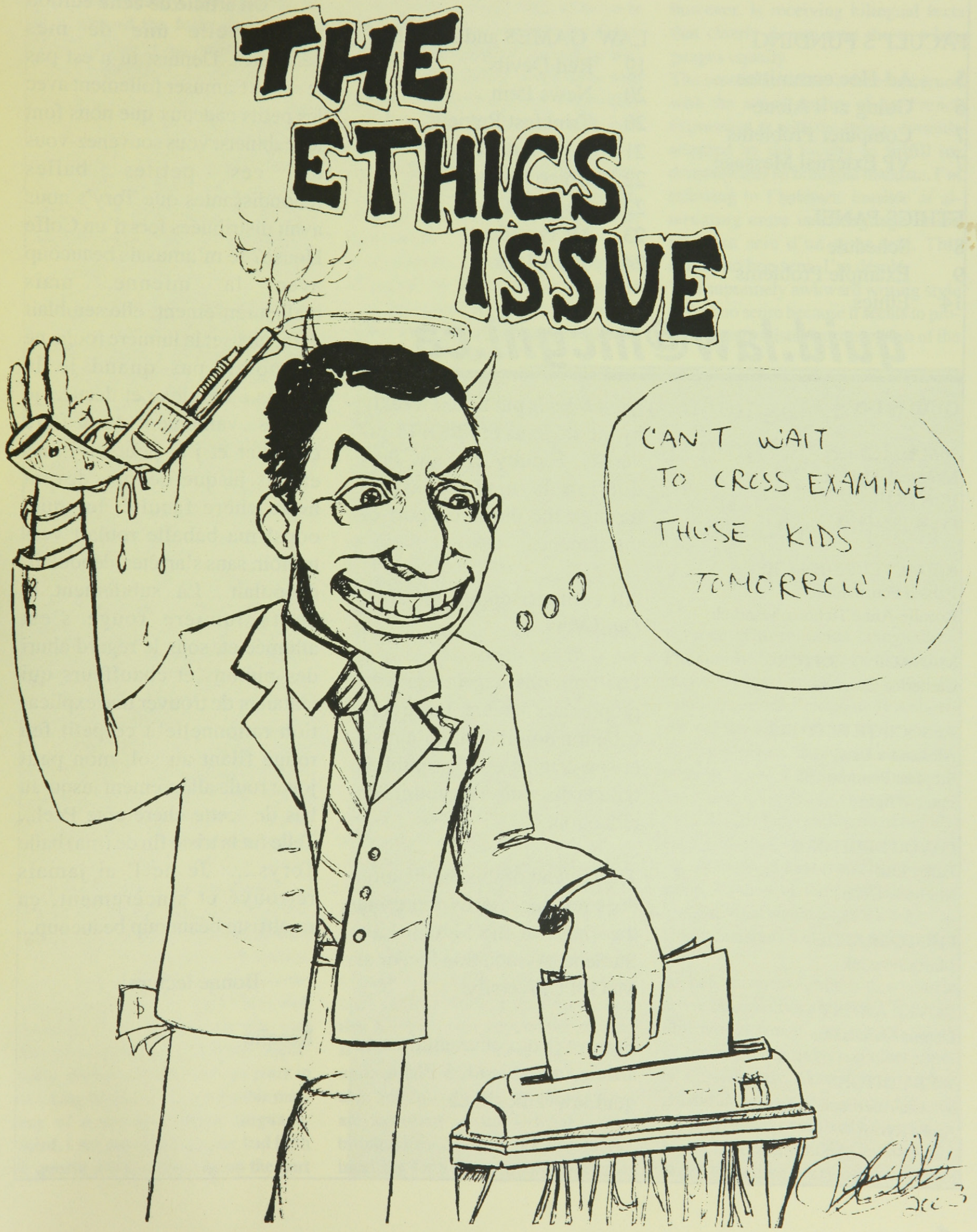
Quid Novi

McGill University, Faculty of Law
Volume 23, No. 12 - January 21, 2003



In this Issue

quid.law@mcgill.ca

QUID NOVI

3661 Peel Street
Montreal, Quebec
H2A 1X1
(514) 398-4430

REDACTEURS-EN-CHEF
Fabien Fourmanoit
Rosalie-Anne Tichoux Mandich

MANAGING EDITOR
Catherine Galardo

ASSOCIATE EDITORS
Alexandra Law
Stephen Panunto
Peter Wright

LAYOUT EDITORS
Jacky Luk
Michelle Dean

PHOTOGRAPHE
Marta Juzwiak

COVER ARTIST
Dennis Galiatsatos

WEB EDITORS
Mischa Auerbach-Ziogas
Aram Ryu

Quid Novi is published weekly by the students of McGill University, Faculty of Law. Production is made possible through the direct support of the students.

Les opinions exprimées sont propres aux auteurs. Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discretion du comité de rédaction.

The content of this publication does not necessarily represent the views of the McGill Law Students' Association Inc. or of McGill University.

Envoyez vos commentaires ou articles avant jeudi 5 PM à: quid.law@mcgill.ca.

Editor's Note

Un article de cette édition me rappelle une de mes péripéties. Dennis, tu n'est pas le seul à t'amuser follement avec les petits cadeaux que nous font les cabinets: vous souvenez-vous de ces petites balles rebondissantes que Tory's nous avait distribuées lors d'un Coffe House? Je m'amusais beaucoup avec la mienne, mais malheureusement, elle semblait défectueuse: la lumière rouge ne clignotait pas quand je la lançais... Perplexe et déçue, je tentais vainement de la faire clignoter et j'ai poursuivi mes efforts jusque dehors, devant notre chère faculté, lorsque, oops! ma baballe roulait vers trottoir, sans s'arrêter, déboulait, déboulait... Là, subitement, la petite lumière rouge s'est allumée et, sous le regard ahuri des piétons et chauffeurs qui tentaient de trouver une explication rationnelle à ce petit feu rouge filant au sol, mon petit jouet roula allègrement jusqu'au bas de cette chère côte Peel... Telle fut la triste fin de (ma) balle Torys.... Je ne l' ai jamais retrouvé et sincèrement, ça m'attriste beaucoup beaucoup...

Bonne lecture!

Rosalie

La Faculty of Droit's Strange Bilinguisme

by Jérôme Lussier, Law III

Last Tuesday, law students re ceived the following text, in cluded in an email from the LSA's VP External:

Veut-tu battre le Barreau du Quebec? Il y aura un réunion parmi les représentatifs étudiant(e)s de toutes les facultés de droites du Québec. Le réunion s'addressera les questions quant à les policies du Barreau du Quebec, particulièrement celles qui concernent les examens.
Ce evenement pourrait representer une occasion excellente de rencontrer des autres étudiant(e)s de droit et de plus apprendre comment marcher une institutione à laquelle plusieurs referent comme "la purgatoire". L'evenement se déroulera à Québec le 25 janvier. C'est possible qu'il soit un petit salaire pour payer la transport.
Si vous vous interesserez, s.v.p. vous addressez au courriel au-dessous.

Of corse, every studente in the faculty understand what it say in de message, essencially. That is note the pointe. The probleme, auwever, is that de message in french contain so many speling and gramar mistake that reeding it was paneful. If this waz rare exception, nobodi said noting. But concidering the prevalans of these boched French verjions in oficial correspondance from LSA and other, peraps a few remarks shoud be say.

As always - and God knows how important it is in this faculty - I must begin with a few provisos. First, this article is not targeted at Jeff Roberts (author of the above-quoted masterpiece). He is a great guy by all accounts, and although I don't know him well personally, my limited contacts with him have confirmed this. More importantly, perhaps, I would see no point in attacking someone's questionable mastery of a second written language. Third, I am not implying any bad faith or questionable intentions on the part of the people I (indirectly) criticize in this article, and I am convinced that student representatives and others who occasionally butcher French do so with the best intentions, which is probably all that matters in the end. Fourth, I am not arguing for the establishment of a language police. I am merely expressing thoughts on the topic of bilingualism, and using a recent document as an example.

In my opinion, the law faculty's strange bilingualism practices, as observed over the course of the last three years, suffer from two significant problems. The first one is highlighted above, and essentially consists in believing that bilingualism is an obligation of means, rather than an obligation of result. For reasons unclear to me, there seems to be a strong sentiment throughout the student body that when it comes to writing in French, getting it right, accents and all, is not really important as long as you try. While this is certainly true in the case of private or personal correspondence, I'm afraid it is wrong in the context of "official" communications, from the LSA, professors or the administration. Approximate translations are especially annoying considering how easy it would be to have any fully bilingual or Francophone student review and edit texts before they are distributed. I will even go so far as to recommend that a new "official translator" position be created at the LSA, with a modest annual compensation. I do not consider this to be a luxury beyond our means. If this cannot be done, then I think unilingual English texts are a preferable option to the parody of French we are too often served. Official faculty bilingualism aside, it is by no means insulting for a Francophone to receive unilingual English messages in a predominantly English faculty. This was expected by every Francophone student upon entering McGill. What is more controversial and harder to swallow, however, is receiving bilingual texts that clearly do not treat the two languages equally.

The second criticism is less concerned with the actual quality of the French expression as with the strange formula adopted by the faculty to fulfill (or demonstrate) its bilingual mandate. I'm referring to l'habitude inusitée of alternating entre une language et the other au sein d'un same text. This makes no bon sens, I'm désolé.

This supremely awkward writing style makes no sense because it seems to proceed from a mistaken conception of the purpose of institutional bilingualism. Put simply, the practice of alternating between French and English within the same text seems directed more at showing off the bilingualism of the author than at accommodating a bilingual audience. When I disserte with utmost virtuosité, effortlessly empruntant expressions de l'une ou l'autre of our idioms officiels, I visiblement strive after l'admiration general et non la meilleure understanding of mon auditoire. Just imagine what would happen if Supreme Court decisions were written like this.

I think unilingual English texts are a preferable option to the parody of French we are too often served.

As before, one solution is to renounce active bilingualism altogether. The Faculty would sometimes publish documents in French only, and other times in English only. Considering the linguistic demographics, it could decide to scrap French completely. A better solution, however, would be to accept (for once) to be like every other bilingual

institution in the world, and publish complete versions of documents in both languages.

Of course, this requires more paper and more time. On the other hand, it could foster concision. Faculty documents could also be printed on double-sided paper, in a welcome change of focus for our beloved school's ever-present need to show off: instead of presenting ourselves to the world as alingual tree killers, we could proudly display our bilingual environmentalism. ■

Y a-t-il un franco dans l'avion?

by Marie-Pierre Grenier et Élise Labrecque. Law I

« Veut-tu battre le Barreau du Quebec?1

Il y aura un réunion parmi les représentatifs étudiant(e)s de toutes les facultés de droites du Québec. Le réunion s'addressera les questions quant à les policies du Barreau du Quebec, particulièrement celles qui concernent les examens. Ce evenement pourrait representer une occasion excellente de rencontrer des autres étudiant(e)s de droit et de plus apprendre comment marcher une institutione à laquelle plusieurs referent comme "la purgatoire". L'evenement se déroulera à Québec le 25 janvier. C'est possible qu'il soit un petit salaire pour payer la transport. Si vous vous interesserez, s.v.p. vous addressez au courriel au-dessous. »

Le bilinguisme passif consiste-t-il seulement en un droit inaliénable à s'exprimer dans la langue de son choix mais en assumant le risque que nos paroles restent inintelligibles pour notre (nos) interlocuteur(s)?

En tant qu'étudiantes de première année, nous avons à plus d'une reprise suscité l'étonnement en annonçant à nos proches que la totalité de nos cours étaient offerts dans les deux langues. Le compromis semblait singulier - historiquement et socialement - pour ce bastion de la culture anglo-saxonne que représente l'Université McGill. Il provoqua toutefois un sentiment d'admiration et de respect chez ceux dont la génération avait scandé bien fort : «McGill Français !». En effet, la Faculté de droit est une pionnière dans la concrétisation d'un bilinguisme institutionnel fonctionnel, bilinguisme auquel on fait la vie dure a mari usque ad mare, from coast to coast, d'un océan à l'autre...

Non seulement les cours de la Faculté sont-ils bilingues, mais ils sont également d'une qualité linguistique remarquable. Plusieurs éléments (interventions des étudiants et des professeurs, état d'esprit général) favorisent la création d'un climat de respect, mais plus encore la création d'un lieu où chacun se sent libre d'intervenir dans la langue de son choix.

Plusieurs éléments ont toutefois contribué à lever le voile sur certaines failles de ce bilinguisme dit «passif». Un commentaire professoral à l'effet qu'il existe un certain bilinguisme «à la McGill» nous a d'ailleurs fait sourire. Le bilinguisme passif consiste-t-il seulement en un droit inaliénable à s'exprimer dans la langue de son choix mais en assumant le risque que nos paroles restent inintelligibles pour notre (nos) interlocuteur(s)? Nous pouvons même faire le parallèle avec le principe du respect d'autrui : n'est-il pas parfois plus simple d'ignorer l'autre plutôt que de chercher à comprendre pourquoi et en quoi il est différent ?

Certains évènements de la semaine ont précipité une réflexion sur ce sacro-saint bilinguisme passif. Un évènement en particulier : une annonce dans notre Notice Board. Peut-être n'y avez-vous porté que peu d'attention, car nous ne faisons parfois que l'effleurer. Mais force est de constater que le titre était plutôt accrocheur : *«Veut-tu battre le Barreau du Québec ?»* (au moment d'écrire ces lignes, un féroce débat fait toujours rage sur la signification pour le moins douteuse de ces mots). Surprise ! Le texte est rédigé par le LSA, l'Association des étudiant(e)s de la Faculté de droit. «Oui, mais le Notice Board», nous direz-vous, «personne n'y prête attention. Ils l'ont rédigé sur un coin de table...». Peut-être, mais ceux qui l'ont lu nous comprendront lorsque nous affirmons qu'il ne s'agit pas là de quelques mignonnes fautes d'orthographe. Il y a de quoi faire frissonner n'importe quel amoureux de la langue de Molière...

Ce texte rédigé en « français » n'a qu'une seule qualité : il pourrait être compris par n'importe quel anglophone ne possédant pas de connaissances en français mais muni d'un mauvais dictionnaire bilingue de poche. Les francophones, eux, tentent toujours de bien saisir l'information contenue dans ce message. À cette fin, deux ou trois lectures sont nécessaires, mais elles nous conduisent à une conclusion fort peu flatteuse pour le LSA : notre association étudiante se soucie bien peu de la langue française.

Ce dur constat n'est malheureusement pas uniquement lié

à ce simple courriel. Celui-ci n'est que la pointe de l'iceberg. Les nombreux envois du LSA nous ont généralement déçues linguistiquement depuis notre arrivée à la Faculté (particulièrement les documents relatifs à la fameuse semaine d'orientation). En l'occurrence, la fonction de représentation des étudiants que le LSA doit assumer n'est absolument pas remplie dans le cas qui nous préoccupe. Aux dernières nouvelles, la Faculté comptait 26 % d'étudiants francophones... Et moins d'un quart de cette annonce est rédigé dans un français décent. Mais poussons plus loin la réflexion.

La question de la représentation des étudiants francophones au comité exécutif du LSA pourrait bien entendu se poser. Nous croyons cependant qu'il s'agit là d'un autre débat, dans lequel entrent d'autres facteurs totalement extérieurs à la présente discussion. C'est ici davantage une question de ressources qui se pose : une simple correction était-elle si ardue à entreprendre ? Nous côtoyons chaque jour francophones, anglophones et allophones à l'intérieur même des murs de notre Faculté. Si nous désirions écrire une lettre en espagnol ou même en arabe, nous saurions tout de suite à qui nous adresser parmi nos collègues. Est-ce donc si difficile de trouver un correcteur pour un message rédigé en français ? Nous en doutons...

Considérons maintenant l'impact qu'une telle utilisation de la langue française pourrait avoir à l'extérieur des murs de la Faculté. Et rappelons-nous que le LSA représente justement les étudiants de la Faculté de droit lors d'évènements aussi bien à Montréal que dans le reste du Canada. Imaginez-vous, par exemple, que la correspondance entre le LSA et le Comité organisateur des Jeux Ridiques ait ressemblé à ce message du Notice Board. La Faculté de droit bilingue de l'Université McGill deviendrait la risée des universités francophones du Québec.

Comprenez-nous bien : nous ne tentons pas ici de réduire à néant ou même de décourager les efforts des anglophones qui tentent d'apprendre cette langue complexe qu'est le français, bien au contraire. Notre passage à la Faculté est par-dessus tout une expérience d'apprentissage à l'intérieur de laquelle s'insère l'acquisition de connaissances linguistiques (en français pour certains, en anglais pour d'autres). Nous affirmons simplement que la langue française mérite d'être écrite et parlée convenablement, surtout dans le cadre de la correspondance officielle d'une organisation représentant les étudiants de la Faculté. Nous croyons qu'un message rédigé en anglais vaut mieux qu'un message écrit dans un français pitoyable.

Dans le doute, s'abstenir...

P.S : Pour activer la correction (orthographe, syntaxe et grammaire) automatique ouvrir le menu «tools» puis sélectionner «spelling and grammar». Après cela, «sit back, relax, and enjoy.» Il y a des francos dans l'avion ! ■

1 Notice Board : LSA VP External Edition, 13 janvier 03. Texte non-modifié et non corrigé par les auteurs de ce présent billet.

A Message from the Ad-Hoc Student Committee on Faculty Funding

Most members of the Faculty of Law are aware that new funding strategies are being investigated for the Faculty. The funding challenges confronting our school were outlined in a report compiled by Prof. MacDonald, following the work of the Strategic Planning Committee, and in response, the Faculty formed a Working Group comprising many different members of the community representing a multitude of stakeholders. Prof. Richard Janda heads this Working Group.

Following the creation of the Working Group, the LSA decided to form its own committee (the Ad-Hoc Committee) to represent student interests in the process and to assist the Working Group where possible. In an election in late November, the following students were selected by the students' General Assembly to form the Ad-Hoc Committee: Jameela Jeeroburkhan, Pascal Zamprelli, Michelle Dean, Pierre-Olivier Savoie, Ken McKay, Jason Crelinsten, Finn Makela, and Charmine Lyn. Jeff Roberts and Jeff Feiner are the LSA Executive members on the Ad-Hoc Committee. Jameela and Ken are also the students' formal representatives at the Working Group.

The Ad-Hoc Committee will be undertaking many initiatives in the coming months, and they meet every Tuesday at 5:30pm on the top floor of Thomson House. All students are encouraged to attend these meetings should they wish.

There will be a website dedicated to the work of this committee, and it shall be created as soon as possible. As well, information will be disseminated regularly via the Quid, pamphlets, and other media. Minutes and publications of the Committee are going to be available in the LSA office. Furthermore, there will be opportunities to become involved with individual initiatives from the Working Group, such as the preliminary analysis of the Social Contract option currently underway. Meetings developing the Social Contract are taking place in the Common Room at 3661 Peel (across from the Library): Mon. Jan. 20th at 12:30, Tues. Jan. 21st at 10am, Wed. Jan. 22nd at 4:30pm, Thurs. Jan. 23rd at 1pm, Mon. Jan. 27th at 12:30, Tues. Jan. 28th at 10. ■

Going at it Alone

by Finn Makela, Law II

Funny how, even in a debate in which everybody is quick to say that all options are open and no positions have been taken, a certain orthodoxy arises. The introduction of buzzwords and catchphrases into a discussion is one effective way to reduce what might otherwise be controversial positions to unquestioned assumptions - common sense. I was therefore pleased to see Jared Will nip the emerging "unique solution" discourse of the faculty finance debate in the bud. His cogent analysis of the relationship between accessibility and excellence and his willingness to situate McGill Law's quandary in a larger context were also welcome reading in the first week back from the holidays.

If experience is a good guide, we may now anticipate a backlash in which some tired, but still serviceable, catchphrases are dragged out to discredit Jared (or his position, but the distinction won't matter). Presumably he will first be told that he doesn't know the facts (for how could someone "know the facts" and still suggest that solidarity and collective action are the best responses?). Next he will get a lesson in reality - his position isn't, of course, realistic. Being realistic means focusing exclusively on tomorrow's problem and leaving next week to the idealists and dreamers. Failing argument, Jared might just be labelled "a radical" which should make him sufficiently disreputable for his opinions to be safely ignored. (Come to think of it, I have already been asked if Jared was "that radical guy" who came up with the "crazy tuition strike thing" - alas that was Daniel Moure pissing... err... micturating... into the wind).

As for whether McGill should abandon any faculty-specific responses to the funding problem, I'm not sure that I agree with Jared. I think we should just be careful to consider under what circumstances we should be willing to do so. In my view, there are three criteria that any "made in McGill" solution would have to meet: 1) it should not detract from, nor be used as an excuse for ignoring, action at the systemic level, 2) it should not harm any other faculty or school, and 3) it should increase accessibility.

Now, you might wonder why a committed leftist would be arguing that, under some circumstances, we should "go at it alone". Wouldn't I rather just see some big central state administer everything? Not necessarily. Though the market model that sets university against university, faculty against faculty, and ultimately student against student, is obviously out for me, this doesn't mean that central planning is the most viable alternative. For cooperative action to really work, I think it must be more than just administered and anonymous participation in a monolithic collective. Communities

have special resources that they can mobilize to solve some of their own problems. Using these resources can help build both solidarity and independence. Perhaps most importantly, it also allows for a somewhat greater degree of autonomy than is typically found in state-centric approaches.
So let's use our special resources and come up with unique solutions. If some of them work, we should try to share them with other faculties and schools. But in doing so, we must be careful not to let our "uniqueness" become a fancy way of saying "privilege". ■

Finn Makela is a member of the McGill Radical Law Community and the Student Ad-Hoc Committee on Faculty Funding. The positions in this article are the author's own and in no way reflect the positions of either group.

Computer Problems?

by Aaron Feinstein, Law II

Often, I need to print readings for a class from the internet. Some of these readings are rather large documents and would take a very long time to print on my home computer. So, I go to one of the faculty's computer labs to print up the document. There, what should take ten minutes sometimes takes close to an hour. When I am lucky and I do have enough print credits, I often run into technical difficulties. Last week, I went to the Upstairs Lab to print some documents. The toner in the printer was low, and the document did not print very well. So, I went to the Library Lab to print the other readings. I sent the documents to print. The dialogue box that says that the documents printed appeared, but they did not print out. Of course this did not happen between 11:30 and 1:30, when technical help is available. Rather than risk losing even more money, I decided to abandon the project. It is a good thing that the readings I was trying to print were not that important.

I believe that this situation occurs rather often in the Faculty. To put it simply, the technical support offered to students is inadequate. I realize that the Faculty has funding problems. However, I believe that there are ways to address the problem without spending excessive amounts of money. I would like to use this space to highlight some of the problems and to suggest solutions.

1) It is silly to only sell print credits for two hours a day and only during the week. It is inevitable that we will run out of print credits outside of the hours when they are for sale. I realize that there are copy card operated printers in the library. But, the instructions posted on how to use them are inadequate, they do not always work, there are times when the copy card vendor is out of order, and, to my knowledge, they do not allow us to take advantage of the discount for printing double sided. Furthermore, what if you have class everyday between 11:30 and 1:30?

The solution is rather simple: Why not allow the staff at the library circulation desk to sell print credits? Then, print credits can be available whenever the library is open. The process does not appear to be overly complex. All they would have to do is click a mouse a few times.

2) Computers malfunction and they do not always malfunction between 11:30 and 1:30. The LSA can remedy this situation by hiring law students to provide basic technical help as a supplement to the help currently available. While those students would not be able to be present at all times, if you encounter a technical problem at 3:00 in the afternoon, it is preferable to wait until a student monitor comes on duty later that day then to wait until 11:30 the next morning.

3) One final suggestion: Sometimes, legal methodology classes meet in the computer lab even though computer use is not required for that particular session. Those sessions should be moved elsewhere.

I hope that these suggestions will provoke a dialogue on how to improve computer services so they better meet the needs of law students.■

LSA VP External Annoucements

by Jeff Roberts, VP External

1. Questions for McGill's new Principal?

Heather Munroe-Blum, McGill's incoming principal, will be presenting herself to a special session of SSMU council on Thursday, January 23 at 18h00. Attendence is open to all students. The principal will deliver her introductory message and will then take questions from students. A brief, and albeit rather hagiographical, biography of the new principal is available on McGill's website. Should you be unable to attend but nevertheless have a question or concern to deliver to Ms. Munroe-Blum,
please forward it the LSA VP External (address below) and I will be glad to raise the matter for you.

***

2. Voulez-vous vous battre contre le Barreau du Québec?

Il y aura une réunion parmi les étudiants représentants de toutes les facultés de droit du Québec. Le réunion aura pour but de s'interroger sur les politiques actuelles du Barreau du Québec, et plus particulièrement sur celles qui concernent les examens.

Cet événement est une bonne occasion pour rencontrer d'autres étudiant(e)s en droit et d'apprendre comment fonctionne cette institution que plusieurs surnomment "le purgatoire".

La rencontre se déroulera à Québec le 25 janvier. C'est possible qu'il y ait un coût de transport.

Si vous êtes intéressés, s.v.p répondez au courriel au-dessous.

***

For information about any of the above, please contact:
jeff.roberts@elf.mcgill.ca

ETHICS AND LAW PANEL:

Daily Confrontations with Ethical Problems in the Practice of Law

Wednesday, January 22, 2003
1:00pm - 3:30pm
Moot Court

PANELISTS:

Richard E. Shadley, Q.C., Criminal Defence Lawyer (Shadley Battista)

Honourable Mr. Justice Allan R. Hilton (Superior Court of Quebec)

Carolyn Polak, Family Lawyer

Me James Brunton, Senior Prosecutor (Federal Department of Justice)

Me Lynne Kassie, Family Lawyer

Me William Hesler, Corporate Commercial Lawyer (Ogilvy Renault)

ETHICS & LAW PANEL: EXAMPLE PROBLEMS

by Chantal Beaubien, Law III

1. Scenarios from Civil Law

SCENARIO 1

You and your partners have had a long-standing relationship with Acme Manufacturing, which is a publicly traded company. As outside counsel, your instructions are, as a matter of company policy, supposed to come from in-house counsel. However, for the last four or five years you have developed a close working relationship with the President and CEO, Mr. Mobile. When you are asked to give a presentation to the Board, it is usually at the invitation of Mr. Mobile. In practice, Mr. Mobile is the one you report to, although you keep in-house counsel informed.

One of you partners frequently does work for a competitor of Acme, a company known as Beta Manufacturing. You had drinks and dinner at your partner's house on Saturday night. Your partner has learned that Mr. Mobile has worked out a deal with Beta. Your partner tells you "off the record" that Mr. Mobile has not told anyone about his plans to jump ship, but that he plans to leave Acme high and dry at the end of the coming week.

The timing could not be worse for Acme, since the company is involved in some very important discussions for a strategic alliance with its key supplier, Raw Material Corp. Mr. Mobile has been conducting the negotiation with Raw Material Corp. practically on his own, with your input on the legal issues and the drafting of the contract. On Monday, you were scheduled to send the final draft of the agreement to Raw Material's lawyer for signature. You quickly realize that when Mr. Mobile moves to Beta, the deal worked out with Raw Material Corp. will likely follow him.

On Monday morning, Mr. Mobile calls to instruct you to put everything on hold regarding the signature of the contract with Raw Material Corp.

You find yourself in a real moral bind. You know that if you hold back on the Raw Material contract, Acme will likely lose the deal to Beta.

Can you betray your partner's confidence and confront Mr. Mobile with what your partner told you "off the record"?

If you let on that you know what he is up to, Mr. Mobile will probably tell you that what you have been told is privileged and confidential, and that your firm is bound not to make any disclosure to Acme. If you are told to remain silent, is that the end of it?

In any event, what are you going to do about the draft agreement with Beta? You have firm instructions from Mr. Mobile not to send the draft to Raw Material Corp.'s lawyer. If you don't, the deal may fall through the cracks in a day or two. If you do, you will be disobeying clear instructions from Mr. Mobile.

What do you do?

SCENARIO 2

You are the partner responsible for Zeta Bank Corp. The Firm is handling many files for this long-standing client. One of them is a piece of litigation relating to a letter of credit dispute. About a year ago, you referred the file to a bright young associate, Arnold Terminator. Arnold has a lot of promise as a litigator and future partner. When you assigned him to the file, you told him to do everything possible to please this important client. The bank's senior vice-president for legal affairs has asked to see you about the file. She wants to see you alone.

The bank's VP relates the following. Since the institution of the action against the bank, Arnold has made four interlocutory motions, all of which have been unsuccessful, except for a motion for particulars, which was successful in part. Arnold appealed the clerk's decision on the motion for particulars and lost. He made a motion to have the action dismissed, which he lost, and then tried to get leave to appeal to the Court of Appeal. He subpoenaed the Plaintiff's President for examination on discovery and refused to postpone the examination when the Plaintiff's attorney said she had planned to be in Florida with her family that week. During the examination, he badgered the witness. Also, when opposing counsel intervened, Arnold told her she didn't know the rules of procedure and referred to her as "Miss" and "My Dear". The bank's VP attended the hearing of one of the interlocutory motions and was distressed that the judge seemed to be paying a lot more attention to the other lawyer than to Arnold. The hearing has been postponed from an earlier date on which Arnold had insisted in proceeding, notwithstanding the fact that the other lawyer was in another courtroom and had sent a stagiaire to hold the fort in the meantime. The action is for $80,000, and to date Arnold has racked up time of $18,000 before even filing a defence. Of this amount, $8,000 is for research time relating to the interlocutory appeal attempts.

The bank's VP states further that, at the beginning of the file, she asked Arnold if the case could be settled, to which he replied that there was no point in exploring settlement until the Plaintiff and their lawyer had been run through the mill so that they could have a taste of what would happen if the case went to trial. Subsequently, someone at the bank has heard that the Plaintiff's President was so infuriated by the way he was treated during his examination on discovery that he has told members of his trade association not to deal with the bank.

What are you going to tell the

bank's VP? What are you going to say to Arnold?

SCENARIO 3

You have received a letter from the Secretary-Treasurer of Fiduciary Trust Company, asking you to provide a response to their auditor's request on claims and possible claims. The enquiry letter lists all of the claims against Fiduciary of which you and members of your firm are aware. However, it does not mention a possible claim. You learned about the possible claim a week ago, and were asked to keep the matter strictly confidential. It appears that one of the senior trust officers at Fiduciary has absconded with over a hundred million dollars worth of negotiable securities belonging to an estate administered by the company. To make matters worse, the insurance coverage for employee fraud has been allowed to lapse. If the employee is not caught and the securities recovered, the estate will eventually learn of the defalcation and sue. A suit of that magnitude would severely damage the company's image and drive down the value of its shares. Other clients might withdraw their business and the company could even be threatened with insolvency. Private investigators have been retained to track down the villain, and there is a chance he might be caught before it is too late to recover the securities. If they are successful, no one may ever learn about what happened and it will be business as usual.

In the response to the audit inquiry, a copy of which is sent to the auditors, can you remain silent about the possible claim? Should you refuse the client's request to provide a response letter? What advice should you give the client regarding disclosure of the incident to the shareholders at the upcoming annual meeting?

SCENARIO 4

Tina and Tony were married in 1992 and signed a marriage contract adopting the regime of separation as to property. At the time of the marriage, Tony was a wealthy individual having a net worth of approximately $5 million with a thriving business. Tina did not have any material assets and had always worked to support herself and her son from a former marriage, never having earned more than $20,000 a year.

One week before the trial, Tony admits to you for the first time that he did indeed have monies in an off shore account but that it would be impossible to prove

At the beginning of the marriage, the lifestyle of the parties was sumptuous and no expense was spared for clothing, meals, jewelry and travel. Unfortunately, Tony's business as well as the marriage unraveled. Tony sued for divorce in 1998 and Tina countered requesting a lump sum of $2 million and alleging not only that she had lived a wonderful lifestyle but, notwithstanding Tony's recent plea that business was terrible, Tony had substantial hidden assets off shore.

Tony was deposed by Tina's lawyer and was asked and was asked whether he had any assets of any nature whatsoever and particularly any bank account off shore. Tony vigorously denied same and stated unequivocally that he had no money whatsoever off shore. After the deposition, Tony decided to engage a new lawyer and comes to you.

Preparations for the trial on the merits are commenced. You went over Tony's testimony many times and Tony repeatedly denied the existence of any off shore assets. One week before the trial, Tony admits to you for the first time that he did indeed have monies in an off shore account but that it would be impossible to prove and it was only $400,000 and not the millions alleged by Tina. The transcript of Tony's examination denying the existence of any off shore money under oath has been filed into the Court record. Tony will be first witness in the case.

What do you do?

SCENARIO 5

Jimmy and Gina were married in 1985 in the regime of partnership of acquests. Divorce proceedings are taken in 1999 and both parties wish to settle all matters between them amicably. Each party produces a truthful statement of their respective assets and liabilities. Settlement discussions ensue and an agreement in principle is reached. Prior to the drafting of the agreement, Gina received an offer for her company, which would triple the value of her shares.

She has reached an agreement in principle and Jimmy had had nothing to do with the success of her business. She retains counsel and asks whether she is obliged to disclose the increase in her assets.

What is your advice?

2. Scenarios from Criminal Law

SCENARIO 1 – Handling Physical Evidence

The Smoking Gun:

A client enters your office, informs you that she has just killed someone in the course of a robbery, and places the "smoking gun" on your desk. She also informs you of the whereabouts of the jewels which she took from the deceased's home. She offers to bring the jewels to your office for safekeeping. She explains that the deceased is actually her sister, and that she robbed her in order to reclaim their late mother's jewels which in her opinion, her sister had wrongfully withheld from her since their mother's death. She also tells you of a letter she had written to her sister a few weeks earlier in which she demands the return of the jewels "or else". She tells you that upon receipt of such letter, her sister had stormed into her office, ripped it into tiny pieces, and told her stay out of her life forever. She, however, had kept a copy for herself. She asks you what she should do with it.

What responsibilities have your client's disclosures triggered for you? More particularly, do you have any affirmative duties with respect to the gun, the jewels, and the letter – the instrumentalities, the fruits and the evidence of motive for the crime?

***R.* v. *Murray*:**

In the Ontario case of *R.* v. *Murray*, the accused was a defence counsel who acted for Paul Bernardo in connection with two murder charges and a number of related offences. Bernardo had videotaped the gross sexual abuse of four of his victims, including the two murder victims, and later hid the videotapes in the ceiling of his house. Despite a 71-day search of the premises, these tapes were not located by police. Bernardo, who was in custody at the time, directed his counsel to attend at the house once the police had finished the search, and to remove the videotapes. Counsel did so, after which he retained the tapes for 17 months without disclosing their existence to the Crown, ostensibly for the purpose of springing the tapes on Karla Homolka, the key Crown witness during cross-examination at trial. Charges were ultimately brought against counsel, alleging that the concealment of the tapes constituted an attempt to obstruct justice. Although he was acquitted, counsel's conduct was subject to sharp criticism by the Court.

What should Murray have done?

Double Books:

Your client calls you concerned that he is about to be audited by the tax department. His ex-partner recently received a visit from the authorities. He tells you that he has two sets of books and would like to bring you the books for safekeeping. In the alternative, he intends to hide the books at a friend's house.

How do you respond?

SCENARIO 2 – Crown Disclosure

You are the Crown prosecutor in charge of a sexual assault file. After full disclosure and many hours of discussions between Crown and defence, the accused through his counsel indicated that he wished to plead guilty and present a joint submission on sentencing.

The assault took place some 20 years ago when the victim was 12-14 years old. The accused is now in therapy and is very remorseful. He has provided you with his therapist's report which indicates that he has come to terms with his problem and wants to deal with it.

The week before the scheduled date for his guilty plea, the victim is in an accident which caused her severe long-term memory loss. It is clear to you that she would be unable to testify.

Must you inform defence counsel?

SCENARIO 3

Bill Jones is 21 years old and a medical student at McGill. His brother Bob is 22 years old and works in a garage. They are about the same size and look very much alike. On June 5th they were both at Sir Winston's Pub with some friends drinking beer. George Green, who was very drunk, was yelling insults at the two brothers and their friends. At a given moment Bill had had enough and threw a bottle in George's direction. Unfortunately, the bottle hit George on the head, he fell over and hit his head on the corner of the table. Eight hours later, he died in hospital.

> "I had no choice, he had a gun and was about to shoot me. It was him or me."

Of the several witnesses who saw the incident, only one identifies Bill as the person who threw the bottle. The others cannot be sure whether it was Bill or Bob. Bill is charged with manslaughter.

Bob comes to you and asks you to represent him. He wants to admit that he threw the bottle and wants to plead guilty to manslaughter. What should you do?

SCENARIO 4

Mr. Herbert was jointly charged with his wife on counts of conspiracy to supply heroin and possession of a controlled drug. On the second day of the trial, Mrs. Herbert's lawyer was told that if Mr. Herbert pleaded guilty, the Crown would not continue proceedings against Mrs. Herbert. Mr. Herbert decided to change his plea to guilty, although he maintained that he is not guilty. What should you do?

SCENARIO 5

Three judges from Eastern Canada are attending a conference in Victoria, B.C. One night, they end up at the Blue Whale Café, where Judges Plante and LeNoir drink a great deal of martinis. Judge Tranquille, a member of AA, drinks Perrier.

Sometime after leaving the café, in the early hours of the morning following complaints from numerous homeowners, officer Righteous arrests the three of them for disturbing the peace. Upon their return home, Plante and Lenoir consult you and, because in fact they were making a great deal of noise, agree to plead guilty. It is understood that the Crown attorney will suggest an absolute discharge for each of them.

Tranquille tells you he made no noise at all and was actually trying to quiet the other two. After speaking to officer Righteous, the Crown attorney refuses to withdraw the charge unless Judge Tanquille pleads guilty to a municipal by-law.

Judge Tranquille reaffirms his innocence. However, he cannot afford the time or money to go to Victoria for a trial. He wants to plead guilty to the municipal by-law offence. What do you do?

SCENARIO 6

Smith, who is charged with murder, appears before Mr. Justice Jones. When the charge is read, Smith

offers a plea of guilty to manslaughter. This plea is accepted by the Crown attorney. Jones J. asks Smith why he shot and killed the victim. Smith replies: "I had no choice, he had a gun and was about to shoot me. It was him or me." Jones J. then states, "You have a defence, I don't think you should plead guilty." Smith replies, "Judge, I have a lengthy record, a jury won't believe me, and I know innocent people are sometimes convicted. I have heard of Marshall, Morin and Milgaard. I don't want to take a chance. I want to plead guilty to manslaughter." Jones J. refuses the plea and ten days later, as Smith foresaw, the jury doesn't believe his version and convicts him of murder. When asked if he has anything to say with respect to his sentence, he states, "I still had no choice, it was him or me. Now can I plead guilty to manslaughter?"

Was Justice done?

SCENARIO 7

Smith, a medical student at Université de Montréal, is charged with possession of Hashish. He and three other students were living in a small three-bedroom apartment near the university. The police, holding a search warrant, enter the apartment and find Smith studying in the living room. In a cupboard in the same room, a pound of hashish is found in a box. There are no fingerprints or identifying marks on the box. All four students have signed the lease. The Crown disclosure indicates no other evidence and the Crown attorney states that the only witnesses are the arresting officers. Smith admits to you that the drugs belong to him.

How do you defend him?

SCENARIO 8

Jones is charged with robbery. The only issue is whether Jones is the individual who drove the getaway car. He tells you four of his friends will testify that, at the time of the robbery, they were with him playing cards, miles from where the robbery took place. You interview his witnesses and his alibi appears solid. The only Crown witness is Mr. Robinson, a senior citizen whose line of vision was somewhat obscured by trees and who is very nervous. Mr. Robinson is adamant as to the identification of Jones.

The day before the trial starts, Jones tells you that he cannot sleep at night and that he believes that he must tell you the truth: He committed the robbery.

What do you do? Can you call the alibi witnesses? Can you allow Jones to testify? How would you approach the cross-examination of Mr. Robins? ■

L'éthique, la déontologie, la politesse et l'étiquette

by Sébastien Roy, Coordonateur du programme de méthodologie

Cette semaine se tiendra la troisième édition annuelle du forum sur l'éthique et le droit. Seront discutés à cette occasion de nombreuses situations hypothétiques épineuses auxquelles l'avocat finit toujours par faire face au cours de sa carrière. Il faut saluer l'initiative de Chantal et des autres organisateurs de cet événement qui constitue un des seuls lieux où les étudiants peuvent être exposés à ces épineux dilemmes moraux et entendre d'autres juristes en débattre. Lors de ma première année, l'éthique ne fût mentionnée que lors d'une seule classe, à l'automne si je me souviens bien. Le professeur (dont je tairai le nom) aborda sa présentation des règles déontologique entourant l'exercice de la profession en nous indiquant que « la déontologie est à l'éthique ce que l'étiquette est à la politesse. » Silence perplexe.

J'ai eu l'occasion de réfléchir à cet énoncé sibyllin lors des dernières années, et en suis arrivé à certaines conclusions cette année à la lecture (oh surprise!) de mon recueil du Barreau du Québec portant sur ce sujet. Je vous en fait part.

Quel est le rapport entre l'éthique et la déontologie? De prime abord, il semblerait que si la déontologie est à l'éthique ce que l'étiquette est à la politesse, la déontologie ne soit que l'application des règles générales de l'éthique aux situations auxquelles auront à faire face les professionnels qui se dotent d'un tel code de déontologie. Mais la situation est plus complexe. En effet, lorsqu'on s'y attarde un instant, on constate que les codes de déontologie dont se dotent les avocats contiennent certaines règles de conduite qui leur sont très spécifiques et qui sont proscrites à l'extérieur de l'exercice de la profession.

> La déontologie est à l'éthique ce que l'étiquette est à la politesse.

Le cas qui nous vient immédiatement à l'esprit est celui de la confidentialité, principe qui fit l'objet de vigoureux débats dans la dernière année en ce qui a trait à l'obligation des avocats de divulguer de l'information pouvant mener à l'arrestation de terroristes. La relation de l'avocat et de son client est tributaire de la confiance qui existe entre eux et doit être maintenue afin que l'avocat puisse obtenir de son client toute l'information nécessaire à l'exécution de sa tâche. Il faut par conséquent respecter les confidences de ses clients, même à l'égard de perquisitions judiciaires. Les avocats disposent donc du privilège de refuser de répondre à un interrogatoire ou de divulguer de l'information aux autorités sous le sceau du secret professionnel. Ce n'est pas le cas d'une personne qui n'occupe pas un tel rôle.

Au sein de notre système, l'avocat a donc plusieurs allégeances qui conditionneront sa conduite. D'abord, il a un devoir à l'égard de son client, dont les intérêts doivent primer sur les siens. Lors d'un procès, il ne fait aucun doute que l'avocat doit faire triompher l'intérêt de son client et non celui de son adversaire. L'avocat doit aussi, dans cette optique, respecter la confidentialité des informations qui lui sont transmises par son client. Mais le rôle de l'avocat est aussi celui d'officier de la Cour. En effet, l'avocat exerce une fonction publique et se doit de collaborer à l'administration de la justice. À cet égard, son devoir est aussi à l'égard du public. Pour rendre les choses plus compliquées, on pourrait finalement souligner les devoirs qui existent à l'égard de la profession elle-même!

Ces nombreuses allégeances sont à la source de nombreux maux de tête pour les avocats, pris entre les feux de l'éthique dite ordinaire et de la déontologie professionnelle. Tous les problèmes publiés dans cet hebdomadaire la semaine dernière témoignent de cette tension et l'illustrent à merveille. Qu'est-ce que l'on doit faire, si un client tente de nous remettre l'arme du crime? Peut-on recommander à un client innocent de plaider coupable? Que faire si un client nous ment ou exige de nous une conduite indigne? Bien que ces situations soient hypothétiques, elles n'ont rien de théorique et chacun d'entre nous qui choisira de faire carrière comme avocat devra leur faire face, tôt ou tard.

Il me semble que c'est un peu un rôle d'équilibriste qui attend l'avocat qui devra soupeser les intérêts de son client puis, par exemple, ses devoirs à l'égard de l'administration de la justice avant de prendre une décision dans une situation épineuse comme celles présentées la semaine dernière dans ces pages. C'est précaire de marcher sur un fil de fer dressé au dessus du gouffre entre l'éthique et la déontologie, mais demandez aux juristes invités cette semaine s'ils feraient autre chose de leur vie. J'en doute fort. ■

Saving the World

by Stephen Panunto, Law III

This section of articles is meant to look into the ethical questions that might confront lawyers during their careers. However, there is a different kind of ethical question that often seems to come up here at McGill: is it unethical to take a job at a big law firm? A recent graduate says that the faculty is going downhill since students are just interested in hopping a plane to a New York job. From many of the conversations I've heard in classrooms, in the halls, and especially during this whole funding debate, many people seem to suggest that big firm jobs are somehow "evil". Many people came to McGill to go into human rights, or some other form of humanitarian law, and wanted to learn the law in order to make the world a better place. These are often looked upon as "good" people, while those of us that choose to come to McGill in order to work as lawyers in law firms are often characterized as greedy, unethical sell-outs. Granted, that may be true of some of us (hi there, Dennis), but by and large, I'm not sure why this is such a popular position.

Firstly, since the vast majority of McGill grads do work in law firms after graduation (you can check the stats at the CPO if you don't believe me), the people who take such a dim view of those after a private legal career are often hypocrites themselves - as I'm sure Scott Gracie would love to tell you. The second, and in my opinion, greatest problem with this blanket generalization is that it ignores the possibility that graduates of McGill (and all law schools) who do choose to go into private practice cannot be ethical or try to make the world a better place. There is no reason that a person cannot make a difference for the better by working in a law firm and by behaving ethically.

First of all, financial security does not mean that one automatically acts unethically. Part of the reason I came to law school was to receive the professional education that would get me a good job - and by good I mean secure and lucrative. I'm not sure all people understand just how important financial security is, especially if they have never had to worry about such things. While there are undoubtedly some (many?) rich people who have done unethical things to acquire their wealth, why does that mean all have? And wealth also allows many people to devote more of their energy to making the world a better place. We as lawyers can devote more time to pro bono work, volunteering for legal aid cases, for example. Will everyone do this? No. But does that mean none of us will? No.

Another reason I came to law school was because I know how people are often screwed over by lawyers. After trying to find a way through governmental red tape herself, a friend of mine gave a lot of money to a lawyer so she could get a work visa (and there were TWO ways for her to get such a visa), but the lawyer took more than a year to get nowhere, at which point she simply gave up and went home. So often, part of being an ethical lawyer is simply not being, as Professor Swan would say, a scumbag. We always hear about big clients like Bombardier who have deep pockets and can afford to have a lunch billed to their account. But a lot of lawyer's work involves people with limited resources (here I don't mean in need of legal-aid, but middle-class), and they are often completely at the mercy of the lawyer they hire - lets face it, people don't often come to a lawyer except as a last resort.

There is no question that those people who choose to come to law school in order to do humanitarian work are worthy of praise and admiration. That does not mean, however, that they or anyone else should look down upon anyone else who chooses to get a good job out of our hard work. And that

also doesn't mean that we are necessarily unethical. Ultimately it is our actions that define us, and while there may be more temptation to be self-centered and take advantage of others (or otherwise act unethically) in a law firm, to paint every person with the same brush is unfair. I've never thought that a job would define who I am as a person, and I don't believe that now.■

Ethics????

by Vanessa Rochester, Law II

I was asked by a friend to write an article to help plug the upcoming ethics panel. My first response was that I really do not know very much about ethics in the legal profession, I would have nothing to write about. Doesn't it really just refer to not sleeping with your clients during billable hours?

In my experience, when you feel bad about something you are doing, you can normally attribute it to either catholic guilt, or the fact that you are most likely doing something wrong. So, does doing something that you may feel might be wrong on some level equate to unethical behavior? I don't know, maybe I should attend the ethics panel to find out. Here is what kicked off this train of thought:

Recently, I was asked by my brother to draw up a contract of sale for his 13 yr old car. This vehicle is affectionately known to the family as 'the death trap', although my brother does refer to it as 'Betsy' perhaps in an effort to avoid reminding himself that the Hindenburg was probably safer than his car is. I personally believe the car is possessed, and on several occasions it has used its faulty electric system to lock unwitting passengers inside the vehicle forcing them to wiggle out the windows. The idea behind this contract was to make sure that should Betsy decide that one of her axels is optional, or that she wants to end her miserable existence and plunge herself off the Jacques Cartier, taking her new owner with her a week after the sale, my dad and my brother wouldn't be responsible. When assigned the task of making sure the purchaser assumes all responsibility for horrors that Betsy will inflict on him, I immediately said no problem (of course reminding them that I am not a member of the bar and that in no way does one and a half years of legal education mean that I know anything about real world application – although, I think we were supposed to learn that in Foundations, but never got around to it). My father, his eyes having glossed over during my disclaimer, promptly exclaimed "great! We are not sending you to evil school for nothing". My efforts to remind him that it was legal, not evil school, and I was unlikely to be awarded a set of horns and join the ranks of the armies of the underworld at graduation, were completely ineffective. So, because I am working (and I use the term very loosely, as I was not being remunerated

> Fight for your client…yada yada yada. So why do I feel a little bad about it?

Next Quid Tuesday January 28th

Deadline Thursday January 23d at 5PM

quid.law@mcgill.ca

for my vast legal experience) for my brother and father, am I supposed to write the contract to make sure that they are totally protected and in a way to raise the least suspicion as possible from the buyer? I think so. Fight for your client…yada yada yada. So why do I feel a little bad about it?

Let me explain. My brother was able to find a buyer. This buyer, a recent immigrant, was most anxious to receive the car as soon as possible as he describes that: "I have many children and need to drive them around." I have written this contract full of little provisions saying how the buyer is responsible for ensuring the car is in compliance with all the applicable laws and that he is responsible for all consequences if it isn't. I never used words like 'inspection', 'safety' or 'if it kills you the next day don't sue us!'. I even wrote notes to my brother on how to explain provisions using examples like a burnt out tail light and speeding tickets, in order to not scare the buyer off.

So, was this what I was supposed to do? I think so. I was 'working' for my brother; I was his attorney so to speak. Do I feel bad about it? A little. If Betsy decides to take this guy, his 9 kids, and a school bus out in a fiery blaze, will I feel worse? Yup. Was there an ethics issue here? My first instinct is to say no, as I was not sleeping with my brother or my father during billable hours or even at all for that matter. Was this possibly an irrelevant story and a waste of your time? Yes, possibly, but at least I got the ethics panel plug in. ■

Thoughts on ethics- why now?

by Peter Wright, Law III

I never liked the word "ethics" so much. It never seemed to apply to me. Sure it was there, not far below the surface of any one of life's little confrontations, but it always seemed so easy to circumvent. And I'm sure I'm not the only one.

Think about it: Playing sports- it's not a foul unless the ref sees it right? Think about all those exams and about how truly precious those extra few seconds after you've been told to put down your pen really are. Think about how many times back in high school you "forgot" to tell your parents just when you'd bring their car back (I never saw a problem with about noon the next day) or about those great little Grade 8 notes written by your "parents" explaining why you didn't make it to school that day...

Are these things "unethical"?? Of course not. Not to me anyway, not then and maybe even not now. It's still not a foul if the ref doesn't see it, and from time to time I still steal those extra few seconds needed to complete a thought at the end of an exam. But the meaning and importance of the word "ethics" has changed for me, and I hope the importance of this notion has started to affect you as well.

It is for this reason that I want to encourage everybody to attend the Law & Ethics Panel on Wednesday January 22nd.

We're all students. Most of us are still years removed from the real professional world aren't we? So why should we think about it now? We've read the Quid, we've seen the hypothetical problems, can't we just ask one of our law firm mentors when the problem comes up? Can't we just figure it out when we get called to the Bar?

Think about it: Playing sports- it's not a foul unless the ref sees it right?

I don't think we can, for one very simple reason- If you've successfully avoided the subject throughout much of your life you now have no choice: Ethics start in law school.

I've been here 3 years now, and I've seen it. I have seen the competition that borders on the unethical. I have tried to take out a copy of Hogg from the University of Ottawa library, only to be told that I would have to read it at a desk directly under their supervision as it was a common occurrence for the pages to be removed by students. I have been in a closed-book exam during my academic career in which I was one of the few who did NOT think to sneak my class notes in with me. I have seen the hoarding of library books, the exclusion of study partners and the denigration of fellow interview candidates by other students. And if these problems exist now in our very own law school, what does this mean for our future careers, careers in which the competition is real, the stakes are higher and the temptation greater?

This is why now is the time to think about it. Think about yourself. Think about your peers. Think about the importance of the notion and the benefits associated with it. Most of all, think about the importance of the notions of reputation and respectability to the profession into which most of us are headed. Should we wish to thrive, should we wish to be trusted and should we wish to build a career and a profession, we all have an interest in ensuring that the notion of ethics does not disappear from the mentality of both professionals and students. And that all starts right here, in law school, in the minds of both you and I.

Wednesday the 22nd I hope to see many of you there. Drop by, check it out, and ask your questions. Most of all, think about ethics. Don't underestimate the importance of the notion of ethics in all facets of your academic and professional life. Make it a priority, make it a principle. By doing so you have much to gain, by forgetting to do so you have everything to lose...■

Top Ten Reasons to Come to the Ethics & Law Panel

1) As a business, the greatest challenge is too many lawyers pursuing a reduced number of clients. As a profession, the greatest challenge is too many lawyers who don't understand that it is a profession.
— **W. Wright Danenbarger**, New Hampshire attorney

2) Without civic morality, communities perish; without personal morality, their survival has no value.
— **Bertrand Russell**

3) Lawyers sometimes tell the truth. They'll do anything to win a case.
— **Jeremy Bentham** (1748-1832)

4) I don't think you can make a lawyer honest by an act of legislature. You've got to work on his conscience. And his lack of conscience is what makes him a lawyer.
— **Will Rogers**, 15 March 1927.

5) A lawyer with a briefcase can steal more than a hundred men with guns.
— **Don Corleone**, in *The Godfather* written by Mario Puzo

6) There is no cause so bad which does not find a lawyer to defend it.
— **François Rabelais**, Pantagruel, 1532

7) There is no better way to exercise the imagination than the study of law. No artist ever interpreted nature as freely as a lawyer interprets the truth.
— **Jean Giraudoux**

8) Lawyers are those whose interests and abilities lie in perverting, confounding and eluding the law.
— **Jonathan Swift**

9) Good people do not need laws to tell them to act responsibly, while bad people will find a way around the laws.
— **Plato**

10) To make a goal of comfort or happiness has never appealed to me; a system of ethics built on this basis would be sufficient only for a herd of cattle.
— **Albert Einstein**

Why civil lawyers are not common

by Harvey Auerback, Alumnus I

"If you acquire too many ethics in college, it will be a severe drain on your earning potential" - Scott Adams

"Mr. Simpson, the state bar forbids me from promising you a big cash settlement. But just between you and me, I promise you a big cash settlement." - Lionel Hutz, Attorney at Law

My first point, which I will not belabour, is that you should definitely attend the Ethics & Law Panel on Wednesday at 1 PM, as advertised by Chantal Beaubien in last week's Quid. Please find below the rest of my points, which I will belabour, as I so often do. Of course, I only write articles this long because JICP is a full two hours, and you need something to do. Consider it a personal favour.

Ethics seems to be rather a big deal in the legal profession. It's so important that actual lawyers and judges are taking time out of their busy, billable Wednesday (actually their lunch hour) to come to McGill and discuss legal ethics in front of some of the province's most promising law students. The Quebec Bar Association even spends six days teaching aspiring lawyers all about the ethics they'll need in the course of their careers. Well, sort of. I'll deal with that later.

Why are lawyers so preoccupied with ethics? Everyone needs ethics in the real world anyway, at least to a certain extent, but ordinary people don't spend so much time obsessing over its finer points. So what's the big deal?

Some lawyers will have you believe that it's important to maintain a general air of credibility and trustworthiness about the profession, but I don't think that's the real reason. No matter what we do as individuals, lawyers will have a reputation for being scheming and dishonest for a long time to come. Also, there are plenty of clients who actually want a lawyer with a reputation for winning at all costs, even if it means breaking a few rules.

Then again, some people out there still have an idealized view of a justice system that lives up to its name. As humans, we all feel like we need to trust the justice system, even if we don't understand how it works, because it's the procedure of last resort to enforce all of our legal rights. Lawyers are the gateway to that system, because lawyers-turned-legislators have made the system so complicated that even other lawyers can't understand it. There has to be at least some minimal element of trust between lawyers and clients, just enough that the legal system seems like a recourse that might work from time to time, and even if your lawyer does take you for a ride, you might come out ahead on balance. The rest can be overcome by desperation, because other than large corporations that keep lawyers on perpetual retainer, nobody ever calls a lawyer unless they really need one. At least, I'm assuming that's how the system works.

Everyone needs ethics in the real world anyway, at least to a certain extent, but ordinary people don't spend so much time obsessing over its finer points. So what's the big deal?

But why is ethics a problem in the legal profession? Most McGill Law students seemed honest and courteous enough during the few years I studied there. I like to think that we'll all wind up maturing into upstanding, honourable lawyers.

Of course, we all know that the whole "happily ever after" thing only happens in the movies. In the few months I've been dealing with real lawyers in a professional setting, I've heard some pretty appalling stories about conduct that we would probably all find offensive and blatantly unprofessional. Granted, each one is an isolated incident, and these are not necessarily indicative of a person who makes a habit of engaging in such conduct. Still, these are the sorts of things that make people mistrust us as a profession. I've heard tell of lawyers deliberately misleading the Court, knowing that evidence that would clarify the matter is not on the record. I've heard of lawyers moving to admit evidence when opposing counsel is asleep in court.[1] Some would even go so far as to move for an interlocutory injunction when lead counsel for the opposing party is known to be in the hospital or out of town.

Those of us who think ourselves generally honest wonder where all of the "bad lawyers" come from. Are other schools full of dishonest, underhanded students? Whatever academic advantages we can presume a McGill Law student to have,[2] I see no reason to expect lower ethical standards in other schools. There's nothing in our admissions criteria that would appear to correlate with ethics, and they sure as heck don't teach us any ethics here. Are there unethical McGill students who just don't outwardly display these qualities? That's perhaps not too far-fetched. People never want to appear as if they can't be trusted, because the

entire advantage of this trait requires seeming trustworthy, in order to surprise people and take advantage of their confidence. Some faint signs of deception and underhandedness can be seen even at the faculty. During my factum period, the Environment Quality Act mysteriously disappeared from the library. This and other disappearing acts by key library resources[3] is clearly an attempt to prevent others from locating an important article or a leading case that the thief has found, thereby affording a competitive edge.[4] Of course, the upside of this particular run-in with library theft was that the thief was not only dishonest but also not very bright. Provincial statutes are readily available for free on the Internet, and can even be consulted at the McGill Legal Information Clinic.[5] One can only hope that the people who are too dumb to cheat properly will also manage to fail a few Bar exams. Judging by my experiences with the Quebec Bar, this is a realistic possibility.

> No matter what we do as individuals, lawyers will have a reputation for being scheming and dishonest for a long time to come.

Is it possible for a generally ethical McGill law student becomes a less-than-angelic lawyer? Where does the system lead us astray? Let's start at the beginning.

After McGill comes the École du Barreau. Those of you who have been reading your friendly neighbourhood Quid already know how highly I think of the Barreau, but you may not yet know the extent of the ethics training that we are given. Integrated into the Preuve et Procédure module (Civil I this year) are six days of "Éthique, déontologie et pratique professionnelle". The material for these lectures is examined within the Preuve et Procédure and Droit des Affaires exams. Sounds good so far, right? Well, notice that the terms meaning "ethics" only account for half of the title of the six-day module. Most of the six lectures are dedicated to such concerns as managing trust accounts, drawing up schedules of court costs, setting legal fees and professional liability insurance - all matters that are taken care of by support staff if you work at a Biggar & Bettar law firm. They pay lip service to things like conflicts of interest and the lawyer's duty of competence. But hey, at least they put ethics questions on the Preuve et Procédure and Droit des Affaires exams, right? So we're forced to read the 200-page book corresponding to its namesake course, and learn all the stuff in there, right? At least the exam will force us to consider a compelling ethical dilemma, right? Come on, you know the Barreau better than that by now. This year's Preuve exam only included 12 points worth of questions from Éthique, all of which consisted of drawing up a schedule of court costs. Not one single point depended on any remotely ethics-related knowledge or judgment. I think that for most of us, this is the first chance the legal profession has to show us the importance of professional ethics. Judging by the current state of the profession, message received.

If the Barreau doesn't make much of a difference, your career almost certainly will. We tend to think of "conflicts of interest" as isolated instances when a lawyer represents party A in A v. B, having already represented B in a similar matter. This also happens when lawyers change firms. In reality, the practice of law will confront you with conflicting interests and obligations all the time. Even the somewhat sanitized domain of intellectual property is not immune, though I'm sure that domains like family and criminal law produce more frequent and difficult dilemmas.

A lawyer has a duty to defend his client's interests competently and diligently. He also has an obligation not to mislead the court or make false declarations, and certain obligations of disclosure toward the opposing party. These and related obligations will necessarily conflict with each other, because of our adversarial judicial system. Your client's interests will virtually always be adverse to the interests of the opposing party, and it will often be in your client's interests to gloss over certain points of law or fact. No case is perfect, and judges aren't always predictable. You'll have to reconcile all of these obligations every day of your professional life, and it won't be easy. I'm sure some very interesting fact patterns will be discussed on Wednesday, in which obligations to the parties and the administration of justice are very finely balanced. When confronted with such a situation, what is a lawyer to do? He will usually consider a number of factors, such as who is paying his fee, whose confidence is most important to him, and to whom he must explain himself if he betrays the wrong obligation. All of these factors invariably point to one's client. If you favour the interests of the opposing party or his counsel, or those of the Court, over your client, you run the risk of seriously damaging a business relationship. Also, you have to explain yourself to your client no matter what happens. You only have to explain yourself to an adversary (or the Syndic du Barreau) if you get caught. This type of reasoning is dangerously close to a "win at all costs" mentality.

It's also easy to get caught up in the heat of a legal battle. Even before you go to court, the exchange of communications between lawyers can feel like a war, and there is always a show of force on both sides. I've drafted letters to opposing counsel in litigation

matters, and depending on the nature of the case they can be pretty vicious. Cease-and-desist letters are usually quite curt and intimidating, with the intent of scaring the other party into immediate compliance. Almost as soon as a new file is opened with your initials on the cover, you feel like your only job is to help your client beat this evil person who has infringed his rights or filed a frivolous lawsuit. This seems to be the easiest and most common perspective to take when one is in litigation.

Having all this in mind, should we be formally taught legal ethics at McGill? The current system is to gloss over it in JICP, which is curiously more or less what the Barreau does. It might be handy to know the specific legal obligations set out in the Professional Code and the Bar Act, as well as the Code Déontologique, but by and large I don't think teaching an ethics course would change very much. No matter how many rules we learn, the temptation to cut corners to further your client's interest is always present. The only way to effectively limit it is to enter the profession with a certain measure of self-discipline and respect for people in general. I think it's too late for most people to acquire these tools once they hit their mid-twenties, if they don't already have them. They are habits that should be ingrained by parents at an early age, and they are necessary for proper human interaction in all walks of life, not just in the practice of law. Legal ethics is less about knowing prescribed rules of conduct than making good choices. Anyway, there's always a catchall rule to the effect that it's an ethical violation to do anything that would bring the profession or the administration of justice into disrepute, which brings us right back to personal and professional discretion. Probably the most important principle to bear in mind during one's legal practice isn't written in any legal text. It's astonishing how far professional courtesy will get you. If you do your part to reasonably cooperate with other lawyers, they'll help you out in return. If not, they'll remember your name. Every now and again, you can let a non-mandatory delay slide, or sit down to negotiate a settlement instead of spending years on a bitterly contested appeal.[6] This makes a much better impression on your colleagues than filing frivolous procedures and contesting every little motion. If lawyers are generally being professional with each other, there's a greater chance that they're dealing fairly with opposing parties as well.

Lawyers are professionals with a lot of responsibility and discretion, so it's important for the legal profession to be self-policing, and that obviously involves individual lawyers being on their best behaviour even when nobody's looking. Lawyers also deal with complex issues, including representing clients who may have already broken one or more laws, and who may be predisposed to breaking some more if it suits them. This goes a long way toward explaining why lawyers have to keep an eye on themselves. If we can just agree to all get along, be nice to people even if they aren't lawyers, and be confrontational only when we absolutely have to, our clients might start thinking of us as something other than transaction costs.

[1] Falling asleep in court is probably also a significant ethics violation for just this reason - you are not available to object to matters of private order, such as the admissibility of evidence in civil trials.

[2] This isn't an article on McGill Law elitism. That's a matter for another day (if ever).

[3] I'm speaking of legal research tools, such as books and reported cases. Laptops don't count, because anybody who wanders into our library has an interest in swiping a laptop for reasons of personal enrichment.

[4] I don't buy into the theory that these people are trying to save 35 cents in photocopies or two minutes of copying time, no matter how poor the student or how rushed his factum. Such a student is too pathetic to even contemplate, and I'd rather think of people as cheaters and thieves. On the other hand, I would also expect a non-stupid law student to realize that his factum mark doesn't depend on anybody else's factum mark, but we already know that McGill law students are painfully unaware of how pointless it is to compete against their peers.

[5] Volunteer at the Clinic. You'll be glad you did.

[6] As an extreme example of how long a case can take, Harvard College v. Canada (Commissioner of Patents) took over 17 years, all told. Of course, that time also involved prosecuting a patent application, filed on June 21, 1985. The initial appeal was from a decision taken by the Commissioner on March 24, 1993, and the issue was finally resolved on December 5, 2002 at 2002 SCC 76. There are probably partners at Smart & Biggar who worked on this litigation as summer students.■

Red Devils Rule in Laval

by Stephen Panunto, Law III

Another Law Games has come and gone. Since clearly I'm biased, I'm not going to tell you whether it was enjoyable or not; you can ask the participants themselves. Personally, I had a ball and wouldn't trade the experience for anything in the world. Worth mentioning, though, is that we won the Academic Trophy thanks to Jason Crelinsten's winning public speech (along with Jeff Feiner's runner-up placing), and Dinesh Melwani and Vinay Shandal's moot win. Congratulations on the victories, guys - and thanks for giving me something to sleep with on Saturday night! ■

NEWS ITEM: IT'S OFFICIAL – LAW GAMES SAVE CANADA

by Mike Brazao, Law II

QUEBEC CITY – Premier Ber nard Landry abruptly stopped proceedings in the legislature yesterday to officially announce that the Sovereignty movement is dead, and that Quebec will continue to assume its role as a viable part of Canada. When asked to explain the sudden about-face, he said that his dramatic change in political orientation was due to the fact that the annual Law Games were hosted in Quebec City from January 9-12.

Ruefully renouncing his former "silliness", he went on to state that effective immediately, the legislature would be hereinafter referred to as the Provincial Assembly, and that a Canadian flag would at long-last be hoisted atop its premises.

"When I really think about it", Landry said of his epiphany, "I got into the separatist movement in the '60s, when everybody was doing a lot of drugs. Seemed like a good idea at the time, and I guess it was just a tough habit to break. Law Games opened my eyes to the fact that we are blessed with a beautiful, bilingual and bountiful country, and to be Canadian is both a privilege and a joy."

But apparently what cinched the deal for Landry was the fact that the McGill delegation, a culturally-diverse group of politically active and power-hungry elitists, brought to his city the two favourite things of the Parti Quebecois: money and ethnic voters.

On a related note, he also announced that all Quebec "embassies" currently situated in foreign countries would be closed, and the funds re-invested in Health Care. Administrators at the Royal Victoria Hospital confirmed yesterday that fifteen beds had been added to their hallways.

After making the historic announcement, the Premier excused himself from the legislature, citing the need to do some paperwork that the Quebec government had absconded from back in 1982, when then-premier Rene Levesque decided his constituents weren't interested in human rights.

No one was more elated by all this than Stephen Panunto, McGill Law VP Sports, who had been tirelessly championing the annual pageant of puerility for the past six months. "I just hope people now see that Law Games truly is the most important thing they'll ever be a part of in their entire life. Ever."

Ironically, Canadian Prime Minister and longtime federalist Jean Chretien was chagrined to hear the news. "How am I supposed to funnel kickbacks to my buddies at GroupAction if I can't do it under the guise of promoting federalism?" he asked a media scrum that had gathered outside the House of Commons, in the most coherent sentence he has ever uttered in either official language. ■

BREAKFAST AT OGILVYS v. L'il SUCKER: THE 3rd ANNUAL TRINKETFEST REVIEW

by Mike Arnot

Every year there is a careers day at the Faculty. And every year, the various law firms hand out all sorts of fun things to amuse law students, from the banal such as pens and calculators that function for a few hours or so, to useful tools such as the "L'il Sucker's" (see below) and Juggling balls. And I rank them all, every year, without fail.

I present to you, this year's winners and losers:

DISCLAIMER: This is not a comment on law firms themselves or the practice of law in general, though you can draw any conclusions you wish.

Best trinket of the year - "A Life Choice" Ogilvy Renault

Hands down, this is a real winner. Avid readers will note that Ogilvy finished runnerup last year, giving out their famed black Ogilvy T-Shirt, made by their client, Gildan sportswear. This year, they gave out "Certified Organic Muslix" (ie. Breakfast cereal) in a stylized Ogilvy Renault box, with all sorts of firm info written on it...contact info, practice areas etc. all in a cereal-box type style. For instance, the cereal suggests - a la Cheerios - that you can "start your career [...day, surely?] off right!" And indeed, the 350g of cereal starts me up in the morning, or at least it will for the next 3 weeks or so. Will this ever make me want to work at Ogilvy? No, but it is cool, and that's why it's numero uno.

Worst trinket of the year - L'il Sucker - MBM - Patent Pending

No competition here. Most of you probably didn't pick it up. I inadvertently picked up three of them, as they were, as the name suggests, "sucked" together. Anyone who wants one can email me at mikearnot@canada.com while supplies last. Indeed, the "L'il Sucker" is self-described as "the ultimate drink holder and suction device". [Insert your own

patent law firm after all. So they get marks for that, though maybe we should be rewriting the Patent Act for these useless oddities. Or let the market decide...

Most Improved - Goodman and Carr

Two years ago they gave away a push-scooter via a draw. Yes, friends, a "scooter". Words cannot describe how LAME that was, though I did see Dennis G. rolling around on his prize on St. Catherine's...This year, they gave away black backpacks. A nice improvement.

Runners-up, in no particular order, best, worst, bad etc.:

Shoe-eater

Lang Michener continually gives out shoe shine stuff, which is probably not very good for your black leather shoes. That said, they seem to have BOXES of the stuff, leading me to believe that they represent Payless shoes or BATA.

Pure crap

The famous trighligter. Just to be sure, I will make myself clear. Trighlighters SUCK -even more than the "L'il Sucker" (see above) given out by MBM. They last one week and that's all she wrote. So you'll spend one week colour coding your notes, then the stupid thing will die, and come exam time, you'll have highlighted colours in your notebook that mean fuckall. Will Heenan and BLG ever learn?

Interesting, but fraught with danger

Torys has a circular paperclip-thingy, which has received a nomination for three years running now. Italian made - très chic. I am sure, however, that they will earn a liability suit soon for their other trinkets: 1) the laser-pointer flashlights, which are quite nice, yet surprisingly dangerous, and 2) for their plastic carabineers (a mountain climbing clip thing) that...well...let's just say that I wouldn't want to climb Mount Everest with that one...

Thoughtful

Eugen Forsey's Book "How Government Works" was given out by the House of Commons "Law firm". Required reading for Canadian Alliance-Reform-Party-types and elementary students alike. ;) Seriously though, Forsey's work is well done - and it's a nice touch from the Hill. See also the Department of Justice, which gets big kudos for plasticizing the Charter of Rights and Freedoms and handing them out (as they gave a paper copy last year - which was last year's winner). If you don't have the budget to give things out, why not handout the Charter! After all, it is their baby. I'll have to pick up a copy for Peter Pound and other Charter enthusiasts. ;)

What happens to bad articling students at Weir Foulds???

Weir Foulds - juggling balls. Right up there with L'il sucker.

Contributing to Canada's Kyoto Commitments

All those law firms that gave out calculators this year...From Aird Berlis to McCarthys etc. etc.

Others

Perley Robertson - John Manley's old haunt gave away pens, which is nothing too spectacular, except that THE PEN WOULD'T OPEN WITHOUT SOME SERIOUS EFFORT. Why not have a junior associate try them all out first? Dans la poubelle, dude.

The Ubiquitous Gowlings mug. Oh... how I wish I had more. Also contributing to Canada's Kyoto Commitments. Gilman would be proud.

McCarthy - no highlighters this year? A perennial winner, but not in 2003. Their block of sticky notes will have to do.

And there you have it folks, 2003's winners. ■

IS THAT THE BEST YOU'VE GOT, ALUMNI?

by Doree Levine, Law III

Some time during exams this past December, I sat down in the library with the Quid for some light reading before settling in to some work. What I read incensed me so much that I spent most of that night pounding out a response to the Quid rather than doing some much-needed work on a paper. Like usual when I read something in the Quid that really gets to me, I didn't send in my response, but rather left it sitting somewhere on my hard-drive. I figured that maybe the holiday break would cool me off, and I will be happy that I hadn't sent it in, seeing as it was a pretty angry rant. But after reading this past week's Quid, with yet another chapter of Alumnus X in Barreau hell, I've reached my breaking point. My vacation was relaxing, I am much more level-headed than I was when I wrote the last un-sent response. So this one is being sent in.

In my three years in Law, I've silently read Quid articles from Alumnus X students who felt the need to keep their ties to the Faculty by spilling their distressed guts on those of us still making our way through law school. Sure, writing to the Quid might be the cathartic release that Alumni seek. But a balance must be struck between trashing the Quebec Bar, and giving Montreal some credit as a respectable choice for new lawyers. We students deserve that much.

Tell me once more how awful the Barreau is. Fine, it is a dreadful year. I get it. We're all now armed with detailed outlines of how to fail it with dignity. We know everyone will likely fail at least one exam. We know that if we

> Two years ago they gave away a push-scooter (...) This year, they gave away black backpacks.

pass it will be by the skin of our teeth. The marking will be random, the appeals unlikely to be successful. The overall experience will be worse than we can imagine. WHAT ARE YOU TRYING TO DO TO US?

For the life of me I can't understand what you Alumni think is gained by giving us all the bad stuff and nothing to balance it out with. It is bad enough that the presence within the Faculty of Montreal firms and alternative legal opportunities pale in comparison with those of Toronto. It is bad enough that the salaries here don't have the allure of Toronto, New York or Boston, and that some students might be limited in their job search here because of limited proficiency in French. Are you then going to be the Montreal lawyers who sit around questioning why everyone is leaving the province to practice elsewhere? Imagine if first-years had to sit and read my Quid articles every week about how horribly dreadful second and third year was going to be. Sure, it might make me feel better at the time but how will I feel when half the class doesn't return after their first summer?

These depressing, fear-inducing (and, ok, some of the Tales were funny) accounts of the Quebec Bar don't help to keep any of us in Montreal. Especially those who are actually searching for some reason to stay. In all of the Tales from the Barreau, only the last one - almost in afterthought - offered a tiny, sentence-long glimpse of hope ("So it all turned out just fine in the end."). Is that all that you've got for us?

I'm really not trying to lay blame on past students for those who leave Montreal after law school. What I am saying is: considering all the horror we've had to read of your experiences, maybe you owe us the other side of the story. In other words, I'd like to hear why anyone should even think of staying here, as you have chosen to do. So, Allen Mendelsohn, Alumnus II, Harvey Auerback, Alumnus I, grant us the benefit of your wisdom beyond the miserable Barreau experiences I have been reading about.

I have no problem perusing your articles about the drafting component of Preuve et Procedure, and how the chances of passing all six exams on the first shot are the same as winning the lottery. I'll take all of that with a grain of salt and know that you were probably really stressed out when writing your bit. But only one student so far has told me that the Barreau isn't as bad as everyone says it is. Is she just a special case? Maybe. But if she isn't, how about letting us know that, too. For the sake of us undecideds, give us something more than the horror stories.

For the sake of us undecideds, give us something more than the horror stories.

Griping about the Bar might make you feel better, but it's keeping me up at night and I could use the sleep. ■

Pino & Matteo Happy to See Chico Back on Winning Track

by Panger

Chico got back on the winning track with a 4-1 win against Mrs. Denby's Boxhounds last Monday at McConnell Winter Arena. While a good deal of holiday rust (along, perhaps, with a Law Games hangover or two) was visible, Chico controlled the play from beginning to end, giving up only a half-dozen shots while buzzing the opposition net. Ken paced the attack with 2 goals - and would have had a helper on a third when he coughed up the puck right in front of his own net.

With the remaining schedule made up of cellar-dwellers, Chico now embarks on the second half of the season poised to go with only a single loss during the entire season. The only blemish on the record currently is a semester-ending and heartbreaking 3-2 loss to the Alkies in a game to decide first place. What is worse is that the game came down to a very questionable call by the refs, who ruled that the puck went in even though the whistle had already blown on a delayed penalty call.

Pino's 3 Stars (Alkies Game)
1st Star: Dinesh
2nd Star: Ken
3rd Star: Dan

Matteo's 3 Stars (Mrs. Denby's Foxhound's Game)
1st Star: Ken
2nd Star: Jason
3rd Star: Adam

Beautiful British Colombia

by Mike Hazan, Law I

When I was in BC for a week in June 2001, I really felt as though the license plate had it right, Beautiful British Columbia. Picturesque harbour, a sprawling Stanley Park and amazing hiking trails in Whistler really made my trip memorable. Now in early 2003, this plush province is grabbing headlines across the country that would make even Glen Clark look good.

Beginning with Premier Gordon "Don't hold back on the Gin" Campbell, the province will be dogged with his drunk driving charge until he either resigns or the next election. On one hand, Campbell has lost much of the credibility that helped him win an election but on the other, should one stupid mistake ruin a politician's entire career? I'm not sure considering that different politicians have been spared for similar transgressions. While

not a criminal offence, Alberta Premier Ralph Klein survived after his own alcoholic escapade at a homeless shelter. As for Goldschlager Gordie, his Maui mugshot will haunt him well after he resigns his leadership post.

This will not haunt BC as much as the bone-chilling story of Robert William Pickton. The 2003 trial will not only bring out the gruesome stories of his kidnapping and murder of 15 Vancouver women but its effects will demonstrate how inept the city's police department was. For years, the families of kidnapping victims were pointing towards Pickton, but the police failed to check out the pig farmer's residence. Still sifting through the mud and dirt, Vancouver police have so far identified over 50 women who disappeared from the Downtown Eastside. Only if the police would have paid more attention and not dismiss the claims because the missing women were largely prostitutes and runaways. Now with a crippled government, an initiative to indict the police may never happen.

Look on the bright side: Vancouver, you are still the cannabis capital of Canada or haven't you noticed? More importantly, you are Canada's candidate for the 2010 Winter Games and it will only cost the taxpayers a mere $600 million. Don't forget this 2003 prediction: you could be like Montreal and still be paying for a biathlon that took place 27 years ago. Not that your province has not been making headlines recently, but winning the games this July will really put you on the map. Vancouverites have tried desperately to get world recognition and by electing Mayor Larry Campbell (the CSI expert who formed the basis of the CBC drama Da Vinci's Inquest) you have definitely found your man. He not only has the same namesake as your illustrious Premier but he can also be called upon as an expert witness in the Pickton trial as a crime scene investigator.

Drunk driving charges, serial killers and a multi-purpose Mayor aside, let's hope the Olympics don't destroy BC's most valuable asset, its environment. It would be a terrible shame if Olympic buildings are constructed at the expense of such exceptional green space. Despite the deep wounds inflicted by Campbell and Pickton, it will take much more to dampen BC's beautiful buzz. ■

To: Mr President

By Edmund Coates

Top Secret: Nonform.
Mr. President,

As you requested by Executive Order 21-395 (and following the discovery of the ultra-secret Iraqi testing site for weapons of mass destruction by a crack team of C.I.A. proctologists) the Commission now reports on the advantages and disadvantages of immediate war with Iraq (we found no disadvantages).

1.) Thanks to their moustaches, Saddam Hussein's look-alikes will easily find new jobs with the Montreal police;

2.) Win/ win situation: We'll use up the tons of radioactive artillery shells we have left over from the last time, thereby creating an even better market in Iraq for U.S. oncology and birth defect detection equipment (however, to circumvent outstanding false advertising litigation, most of U.S. suppliers will route their used incubator sales through a third country);

3.) Clearing land in Iraq will allow you to give your Daddy a nice retirement ranch there, 600 kilometers from any broccoli;

4.) In September 2001, you promised to bomb the place that gave the highjackers pilot training, but this would have affected your election chances in South Florida. Another war will distract people from the need to bomb the person who made millions, just a few years ago, selling all kinds of technology and heavy equipment to the government of Iraq (it would be a shame to have to rebuild Mr. Cheney's mansion, when the renovations have just finished, and all);

5.) Enough heavy bombing of Iraq would erase archeological evidence of any civilization pre-dating McDonald's and Britney Spears;

6.) War will bring much needed competition to all those Vietnamese restaurants across America. Thousands of refugees, who will have nothing but hunger on their minds, will naturally open Iraqi-style take-outs (there will be a ready-made mail-order market for American-style Iraqi food, among the millions of urban Iraqis who will be threatened with starvation when the Iraqi state collapses). Soupe Baghdadoise, anyone?

Enough heavy bombing of Iraq would erase archeological evidence of any civilization pre-dating McDonald's and Britney Spears

7.) The 2003 Cadillac S.U.V. gets 12 miles per gallon;

8.) After the conquest, we will not need to set up a Homeland Security Department in Iraq; we will just need to rename the one the Iraqi government already has;

9.) In case you are not re-elected to Washington in 2004, remove Saddam Hussein now and create a great new opportunity for yourself. You would be guaranteed 100% approval ratings, as the new President of Iraq;

10.) As President of Iraq, you won't need to tighten up their welfare, employment standards, justice, prison,

and capital punishment systems. You had to work hard keeping these things from straying when you were Governor of Texas, but in Iraq everything is already as you like it.

Note: Probing the innards of a joke seldom helps it, but sometimes explanations are called for nonetheless. I have been asked why I used Paul Hesse in my "Cloning" piece in the Quid. I asked whether cloning Paul Hesse would create such an explosion as to destroy all other clones. I got the structure of this from Wittgenstein's "Lecture on Ethics". Wittgenstein supposedly said that if a book could really be written about ethics, that book would create such an explosion as to destroy all other books. My purpose required the name of someone exuberant, who stood out a bit. I needed a law student, the possibility of whose copying would seem a bit absurd, and so drive the joke. I know some good and clever people who are still students at the law school, but no Benvenuto Cellini. So I asked my sources for names and used Paul Hesse's (based solely on hearsay as to his reputation). I was relying on sources I consider reliable, but I am open to correction. ■

==

The Clash

apparently by Erin Easingwood's boyfriend

Dear Quid;

A close "personal acquaintance" (an energetic Yr I female prez) showed me a letter your publication ran some time ago. It was from David Perri (Yr I) to the McGill Law student body, where he compared the punk icons The Clash to the needs of the modern Law student. He used the theme of personal and professional growth via the five major albums they released during their career.

David pointed out (accurately, in my mind) that each Law student should aspire to the same growth and development that The Clash experienced during their rise to fame and social relevance. The Clash elevated punk to a higher ground with their intelligent, straight-up commentary while hammering out guitar chords which "called for action". They grew up, but never sold out - a great lesson to live by for anyone.

The Clash - like anybody - had to start somewhere. To David and all seasoned and prospective Clash listeners, the first two albums simply Do Not Suck. Yes, these albums contain a more amateurish, teenage angst-laden sound than later Clash titles. Amateurish angst and raw energy are the roots of punk music, but to dismiss them as "three-chord rage rock" lacking "firm direction" is simply off the mark. Compare even The Clash's early work with what their contemporaries were doing and it all falls into perspective. From the cutting edge of White Riot to the brilliant remake of Junior Murvin's reggae giant Police and Thieves. Not to mention The Clash anthem Tommy Gun. Even to the end of their days together, Tommy Gun always brought the house down. That never sucked.

Urging your fellow students to ascend intellectually and morally through life is commendable, but you picked on the wrong band as an example. There are plenty of bands out there who sucked at the start, then got better. Greenday- no, wait. They always sucked. ■

Next Quid Tuesday January 28th

Deadline Thursday January 23d at 5PM

quid.law@mcgill.ca